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BY: \_\_\_\_\_

Date: December 8, 2003

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Patent Application of:  
Eric Garver, *et al.*

Conf. No.: 5387

Group Art Unit: 1635

Appln. No.: 09/932,300

Examiner: Mary M. Schmitt

Filing Date: August 17, 2001

Attorney Docket No.: 9855-3U2

Title: METHODS OF INHIBITING ALCOHOL CONSUMPTION

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**RESPONSE TO RESTRICTION REQUIREMENT**

This Response to Restriction Requirement is supplied in view of the Restriction Requirement (Paper No. 9) mailed June 11, 2003. It is timely filed on December 8, 2003 in view of the Petition for a four-month extension of time submitted herewith.

Claims 1-33 and 44 are pending in the application.

In Paper No. 9, the Examiner has imposed a restriction requirement (1) among the antisense sequences of SEQ ID NOS: 98, 107, 109, and 111, and (2) between the alleles of the aldehyde dehydrogenase gene ALDH2-1 and ALDH2-2. As basis for the rejection, the Examiner relies solely upon that portion of M.P.E.P. 2434 that states:

[T]he Commissioner has partially waived the requirements of 37 CFR 1.141 and will permit a reasonable number of such nucleotide sequences to be claimed in a single application. Under this policy, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction. Those sequences which are patentably indistinct from the sequences selected by the applicant will also be examined.

The applicants respectfully traverse the restriction requirement.

The Examiner has provided no basis for restriction, and the portion of the M.P.E.P. upon which she relies expressly states that up to ten independent and distinct nucleotide sequences will be examined in the single application. In the present case, the Examiner is impermissibly requiring the applicants to limit the invention to one nucleotide sequence each: one antisense sequence and one target gene sequence. The Examiner has not met the burden of providing any reasoning as to why the inventions are distinct from one another, and would impose an undue search burden upon her. Accordingly, the applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement.

### PROVISIONAL ELECTION

In the event that the Examiner does not withdraw the restriction requirement, the applicants hereby provisionally elect for initial prosecution the antisense sequence designated in this application as SEQ ID NO: 110 and the ALDH2-1 allele.

### CONCLUSION

In view of the foregoing, it is respectfully requested that the Examiner consider and allow the claims at the earliest opportunity.

Respectfully submitted,

**ERIC GRAVER, et al.**

8 December 2003  
(Date)

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